

Calendar No. 1988

86TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 1918

OELBERMANN FOUNDATION

AUGUST 26 (legislative day, AUGUST 24), 1960.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 3898]

The Committee on the Judiciary, to which were referred certain bills dealing with amendments to the Trading With the Enemy Act of 1917 and the War Claims Act of 1948 reports an original bill for the relief of the Oelbermann Foundation and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to authorize the Secretary of the Treasury to pay to the Oelbermann Foundation, a charitable organization of Cologne, Germany, an award adjudicated in favor of said foundation under the Settlement of War Claims Act of 1928.

GENERAL STATEMENT

During World War I the Alien Property Custodian seized assets in this country owned by Mrs. Laura Oelbermann, a German national, which were held in her name. Also seized were certain other assets which Mrs. Oelbermann owned but which were held in the name of several banking institutions. The Oelbermann Foundation was not in existence at the time of the seizure. Mrs. Oelbermann died in 1929. Her will directed the creation of the foundation, a charitable institution maintaining a home for working girls and a day nursery, and she bequeathed and devised all her estate to the foundation. Approximately 80 percent of the assets which had been in Mrs. Oelbermann's name at the time of seizure were returned in 1930. The assets not originally in Mrs. Oelbermann's name, together with certain income, were not returned in 1930 partly because of tax litigation involving

seized assets held by the several banking institutions mentioned above.

The litigation affecting the Oelbermann assets terminated in 1932. In August of 1933 the Alien Property Custodian recommended to the Attorney General that the retained Oelbermann assets be returned. However, for 9 months following adjudication no action was taken by the Attorney General. On June 27, 1934, the Congress enacted the Harrison resolution (Public Res. 53) (48 Stat. 1267), which blocked any further transfer of property to the former owners.

The present bill would authorize the Secretary of the Treasury to pay to the Oelbermann Foundation the full amount of the award adjudicated in favor of said foundation under the Settlement of War Claims Act of 1928. The Department of Justice has stated that there is approximately \$338,000 involved. The bill carries an authorization for an appropriation of an amount sufficient to pay the award.

Attached to this report are the views of the Department of Justice.

DEPARTMENT OF JUSTICE,
Washington, D.C., July 29, 1959.

HON. OLIN D. JOHNSTON,
Chairman, Subcommittee on the Trading With the Enemy Act,
Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on section 11 of the amendment in the nature of a substitute to S. 672 which you intend to propose.

Section 11 would authorize payment to the Oelbermann Foundation of Cologne, Germany, in the full amount of the award adjudicated in favor of the foundation (about \$338,000), payment of which was withheld following passage of Public Resolution 53, 73d Congress, approved June 7, 1934 (48 Stat. 1267).

This matter arises out of the seizure by the World War I Alien Property Custodian of assets owned by a German national, Mrs. Laura Oelbermann. The greater part of the seized property had been held in her own name and the remainder had been held in the names of several German banking institutions. The Oelbermann Foundation was not in existence when the Custodian acquired Mrs. Oelbermann's property.

Prior to her death in 1929 Mrs. Oelbermann received the maximum return of \$10,000 allowable under the Winslow Act of 1924 (42 Stat. 1511), amending the Trading With the Enemy Act. In 1930, pursuant to the Settlement of War Claims Act of 1928 (45 Stat. 254), her executors received a return of 80 percent of the property which had been in her name at the time of seizure. Certain other seized assets not in her name at that time had been beneficially owned by her. These assets, and certain income therefrom, were excluded from the 1930 allowance to her executors because certain of the assets were involved in litigation and the proof of her ownership with regard to others was then insufficient.

It will be helpful in considering the proposed section 11 to review the Settlement of War Claims Act of 1928 and other post-World War I legislation affecting the situation.

The primary aims of the Settlement of War Claims Act of 1928 were to provide for the payment of war damage claims of the United States and its nationals against Germany and to effect a return of seized German assets. However, a claimant for return under the act could receive only 80 percent of his assets immediately and was required to consent in writing to the postponement of the return of the remaining 20 percent. The act provided for the payment of the American war claims from a newly created German special deposit account in the Treasury to be constituted mainly from this retained 20 percent and from the reparation payments then being made to this country by Germany. However, this financing proved inadequate. As a result, the United States and Germany entered into an agreement known as the Debt Refunding Agreement of 1930 (46 Stat. 500), whereby the United States accepted Germany's obligation, evidenced by 103 German Government bonds, to make 103 semiannual payments in dollars. Germany defaulted in 1931.

Public Resolution 53, 73d Congress, approved June 7, 1934 (48 Stat. 1267) directed that so long as Germany was in arrears under the Debt Refunding Agreement of 1930, all transfers of money or other property the return of which was authorized under the Trading With the Enemy Act and the Settlement of War Claims Act should be postponed except as the President in his sole discretion might permit. Executive Order 6981 of March 2, 1935, and Executive Order 7111 of July 22, 1935, removed the restrictions as to all transfers except those to nationals of Germany.

In order to afford some relief to the American war damage claimants injured by Germany's default in 1931, the 80th Congress enacted Public Law 375, approved August 6, 1947 (61 Stat. 789) which directed that the proceeds of the assets subject to the prohibition of Public Resolution 53, 73d Congress, be deposited in the German special deposit account in the Treasury for distribution to the American claimants. The funds which are the subject matter of the claim of the Oelbermann Foundation were included among those transferred to the Germany special deposit account under Public Law 375.

In 1952 the United States and the Federal Republic of Germany entered into an agreement under which the latter bound itself to pay a total of \$97,500,000 in installments over a period of 26 years to be used in discharging Germany's obligation to the American nationals with unsatisfied World War I damage claims. The World War I claims of the United States were not provided for.

It will be seen from the foregoing that the Oelbermann Foundation's difficulties stem from the default of the German Government in 1931 and not from any arbitrary or unwarranted action by the United States. Furthermore, the funds now sought by the foundation were applied pursuant to Public Law 375 to the payment of American claimants. The funds served to reduce the amount of the unsatisfied claims which were the subject of the 1952 agreement between this country and the Federal Republic of Germany and thereby served to benefit the latter. Thus, it would seem that any equitable claim which the foundation may have lies against the Government of the Federal Republic rather than against this Government.

Legislative relief sought by section 11 is essentially of a private character. No attempt has been made by the Department of Justice

to compare the foundation with other organizations and persons whose assets were similarly disposed of under the requirements of Public Law 375. However, it may well be that many organizations and persons are in the same position as the Oelbermann Foundation. If this is so, section 11 would be preferential. Undoubtedly Congress was aware that there would be such cases when it enacted Public Law 375. There does not seem to be any justification for repealing Public Law 375 by a piecemeal process of preferential legislation.

For the reasons stated above, this Department recommends against the enactment of section 11 of the amendment in the nature of a substitute to S. 672 which you intend to propose.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

LAWRENCE E. WALSH,
Deputy Attorney General.

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